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ONE HUNDRED NINETEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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February 24, 2025

MEMORANDUM

To: Subcommittee on Health Members and Staff
From: Committee on Energy and Commerce Majority Staff
Re: Subcommittee on Health Hearing on February 26, 2025

I. INTRODUCTION

The Subcommittee on Health will hold a hearing on Thursday, February 26, 2025, at 10:00 a.m. (ET) in 2123 Rayburn House Office Building. The hearing is entitled "An Examination of How Reining in PBMs Will Drive Competition and Lower Costs for Patients."

II. WITNESSES

- **Mr. Hugh Chancy, RPh**, Pharmacist and Owner, Chancy Drugs
- **Mr. Shawn Gremminger, MPH**, President and CEO, National Alliance of Healthcare Purchaser Coalitions
- **Mr. Anthony Wright**, Executive Director, Families USA
- **Dr. Matthew Fiedler, PhD**, Joseph A. Pechman Senior Fellow, Center on Health Policy, Brookings Institution

III. BACKGROUND

During the 118th Congress, the Committee on Energy and Commerce, in addition to the other congressional committees of jurisdiction, conducted critical oversight of the prescription drug supply chain. Together, several committees advanced meaningful, bipartisan legislative proposals aimed at improving incentives among these actors with the ultimate goal of lowering patients' drug costs. Many of these policies focused on pharmacy benefit managers (PBMs).

PBMs emerged in the early 1960s to manage increased patient demand for prescription drugs, and their business practices, services, and structures have evolved over time. By 1980, 32 percent of prescription medications were covered by third-party sponsors, compared to 4 percent

nearly two decades earlier.[1]

Today, PBMs offer clients a variety of services. These include negotiating with pharmaceutical manufacturers and pharmacies on behalf of drug plans, employers, and government payers, processing claims, reviewing and tracking drug utilization trends, and providing mail order prescriptions. PBMs help clients write their benefit policies and establish networks of pharmacies for enrollees, including developing and maintaining drug formularies, a practice which has recently been most heavily scrutinized. Formularies are established by PBMs and directly affect access to certain prescription medications for patients, especially seniors covered under Medicare Part D.

MARKETPLACE TRENDS

Roughly 80 percent of all prescription claims were processed by only three PBMs (CVS Caremark, Express Scripts, and Optum Rx) in 2021.[2] PBMs have come under scrutiny for vertically integrating with health plans; retail, specialty, and mail order pharmacies; and other entities across the drug supply chain.

Parent/Owner	CVS Health Corporation	The Cigna Group	UnitedHealth Group Inc.	Humana Inc.	MedImpact Holdings Inc.	19 BlueCross BlueShield plans
Drug Private Labeler	Cordavis Limited	Quallent Pharmaceuticals	NUVAILA			
Health Care Provider	MinuteClinic, Signify Health	Evernorth Care Group	Optum Health	CenterWell		
Pharmacy Benefit Manager	CVS caremark 34%	EXPRESS SCRIPTS 23%	Optum Rx 22%	Humana Pharmacy Solutions. 7%	MedImpact 5%	PRIME THERAPEUTICS 3%
"PBM GPO"/ Rebate Aggregator	Zinc Health Services	Ascent Health Services	Emisar Pharma Services	Ascent (via contract)	Prescient Holdings Group LLC	Ascent (minority owner)
Pharmacy - Retail	CVS Pharmacy					
Pharmacy - Mail Order	CVS Caremark Mail Service Pharmacy	Express Scripts Pharmacy	Optum Rx Mail Service Pharmacy	CenterWell Pharmacy	Birdi, Inc.	Express Scripts Pharmacy (via contract)
Pharmacy - Specialty	CVS Specialty Pharmacy	Accredo	Optum Specialty Pharmacy	CenterWell Specialty Pharmacy	Specialty by Birdi	Accredo (via contract)
Health Insurer	Aetna	Cigna Healthcare	UnitedHealthcare	Humana		19 BlueCross BlueShield plans

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[1] T. Joseph Mattingly, David A. Hyman, Ge Bai, *Pharmacy Benefit Managers: History, Business Practices, Economics, and Policy*, JAMA HEALTH FORUM, 2023, https://jamanetwork.com/journals/jama-health-forum/fullarticle/2811344.
[2] Adam Fein, *The Top Pharmacy Benefit Managers of 2021: The Big Get Even Bigger,* DRUG CHANNELS, 2022, https://www.drugchannels.net/2022/04/the-top-pharmacy-benefit-managers-of html.
[3] Federal Trade Commission, *FTC Releases Interim Staff Report on Prescription Drug Middlemen,* 2024, https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-releases-interim-staff-report-prescription-drug-middlemen.

The Federal Trade Commission (FTC) published two interim staff reports over the last eight months regarding the effects of such vertical integration on access to prescription drugs.[4] The FTC's July 2024 interim staff report shows pharmacies affiliated with the three largest PBMs account for almost 70 percent of all specialty drug revenue. In Medicare, research shows that almost 40 percent of Medicare specialty drug spending came from pharmacies owned by the four largest PBMs.[5]

Vertical integration has made it possible for drug manufacturers and PBMs to deploy a variety of strategies to ensure their products that face competition are placed on a PBM's drug formulary, thereby seeking to reduce the competitive pressures they may otherwise face. Some pharmaceutical manufacturers have offered a high list price or highly rebated branded drug strategy to ensure their drug is placed on a PBM's preferred drug formulary tier.[6] As a result, vertically integrated PBMs are incentivized to accept offers from manufacturers that use this strategy to drive higher rebate revenues. In 2019, gross-to-net reductions for brand name drugs was $175 billion, about two-thirds of which came from rebates to PBMs.[7]

Two recent examples illustrate how marketplace behaviors are being driven by PBM's preference for highly rebated drugs. Amgen's long-awaited Humira biosimilar, Amjevita, reached the market in 2023. The manufacturer chose two different price points at which to offer Amjevita: a 55 percent discount from Humira's list price, and a 5 percent discount from Humira's list price, the latter including rebate incentives.[8] A few months following the drug's launch, national plans covered the high price, highly rebated option, while some regional plans declined to cover the biosimilar, with a few implementing step therapy requirements for patients to access the therapy.[9]

Viatris offered a blueprint for this strategy and its pervasive impacts on the Medicare program. In 2020 and 2021, Viatris launched a branded and non-branded interchangeable biosimilar product to Sanofi's Lantus, an insulin product. The company launched the unbranded version at 65 percent of Lantus' list price and launched the branded Semblee at 95 percent of

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[4] *Id*; Federal Trade Commission, *FTC Releases Second Interim Staff Report on Prescription Drug Middlemen*, 2025, https://www.ftc.gov/news-events/news/press-releases/2025/01/ftc-releases-second-interim-staff-report-prescription-drug-middlemen.

[5] Pragya Kakani, Swayami Navangul, Christie Lee Luo, et al., *Use of and Steering to Pharmacies Owned by Insurers and Pharmacy Benefit Managers in Medicare,* JAMA HEALTH FORUM, 2025, https://jamanetwork.com/journals/jama-health-forum/fullarticle/2828817?resultClick=1.

[6] *See* Joshua P. Cohen, *First Marketed Humira-Referenced Biosimilar, Amjevita*, Feb. 1, 2023, ("Rebates are payments made by drug manufactures to PBMs and insurers in exchange for moving market share towards a 'preferred' product.")

[7] Rena M. Conti, Brigham Frandsen, Michael L. Powell, James. B. Rebitzer, *Common Agent or Double Agent? Pharmacy Benefit Managers in the Prescription Drug Market,* NATIONAL BUREAU OF ECONOMIC RESEARCH, 2022, https://www.nber.org/system/files/working_papers/w28866/w28866.pdf.

[8] Zoey Becker, *Amgen's Humira Biosimilar Amjevita Hits the Market With 2 Different List Prices,* FIERCE PHARMA, 2023, https://www.fiercepharma.com/pharma/amgens-humira-biosimilar-amjevita-hits-market-two-different-list-prices.

[9] Red Nucleus, *Underwhelming Payer Response to Amjevita, The First Humira Biosimilar,* 2023, https://rednucleus.com/resources/payer-response-biosimilar/.

Lantus' list price.[10] Within the first year of Viatris' launch of both drugs, 78 percent of PBMs covered Lantus over Viatris' drugs. In Medicare Part D, 99 percent of plans covered Lantus, the highly priced and highly rebated branded drug.[11]

IMPACTS ON PATIENTS

PBMs' role in developing and managing formularies on behalf of clients has effects on patients' access to medicines by establishing which drugs are covered by a plan sponsor and what, if any, stipulations there may be for a plan to cover a medicine. Formularies often consist of multiple tiers, which dictate how a medicine is covered by a payer, whether a patient may have some form of cost-sharing for the medicine (e.g., copays and coinsurance) at the pharmacy counter, or if there are utilization management tools (e.g., step therapy, prior authorization, or quantity limits) in place for the drug.

The Government Accountability Office (GAO) has raised concerns about how rebates affect formulary design and patients' costs for medicines. A 2023 report by GAO analyzing a sample of highly rebated drugs in Medicare Part D found that "drugs with higher gross costs generally result in higher beneficiary payments relative to payments for competing drugs with lower gross costs."[12] Of the 100 highest rebated drugs in Part D in 2021, beneficiaries paid more than the plan sponsor for 79 of those medicines once rebates were factored in.[13] Patients spent over $20 billion for these drugs, while plan sponsors spent just over $5 billion.[14]

Other research has indicated a correlation between list prices and rebates, finding that a $1 dollar increase in rebates was associated with a $1.17 increase in list price.[15] Higher list prices create higher costs for patients in the deductible phase of their benefit, as well as greater cost sharing for drugs covered on a formulary tier with coinsurance—which is often linked to list price, rather than net price. Seniors on Medicare have also experienced reduced access to lower-cost generic medications. Avalere Health data shows that generic drugs have increasingly been placed on non-preferred formularies requiring higher-cost sharing for seniors. In 2022, almost 60 percent of generic drugs were placed on non-generic drug tiers by Part D plan sponsors.[16]

Additional evidence suggests that vertically integrated PBMs are disadvantaging local retail and community pharmacies. This happens in a variety of ways, including through the use

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[10] Fraiser Kansteiner, *Viatris Launched 2 Versions of its Interchangeable Insulin Biosimilar. Why?*, FIERCE PHARMA, 2021, https://www fiercepharma.com/pharma/viatris-launches-two-versions-its-interchangeable-biosimilar-semglee-bid-to-tackle-pricing.
[11] Fein, Adam, *The Warped Incentives Behind Amgen's Humira Biosimilar Pricing–And What We Can Learn from Semglee and Repatha (rerun),* DRUG CHANNELS, 2023, https://www.drugchannels net/2023/03/the-warped-incentives-behind-amgens.html.
[12] Government Accountability Office, *Medicare Part D: CMS Should Monitor Effects of Rebates on Drug Coverage and Spending,* 2023, https://www.gao.gov/assets/gao-23-107056.pdf.
[13] *Id.*
[14] *Id.*
[15] Neeraj Sood, Rocio Ribero, Martha Ryan, Karen Van Nuys, *The Association Between Drug Rebates and List Prices*, USC SCHAEFFER, 2020, https://healthpolicy.usc.edu/research/the-association-between-drug-rebates-and-list-prices/.
[16] Shruthi Donthi, *57% of Generic Drugs Are Not on 2022 Part D Generic Tiers*, AVALERE, 2022, https://avalere.com/insights/57-of-generic-drugs-are-not-on-2022-part-d-generic-tiers.

of preferred pharmacy networks in which the PBMs that are vertically integrated with affiliate pharmacies steer patients to these affiliates. Vertically integrated PBMs have also been scrutinized for reimbursing affiliated pharmacies at higher rates than non-affiliated pharmacies. PBMs may also use "spread pricing" in which a PBM reimburses a pharmacy for less than what it costs to sell the drug to a plan sponsor and pockets the difference between the rate negotiated between the pharmacy and the plan sponsor.

These pricing models have created downward pressure on local retail and community pharmacies that are already operating on thin margins, which has been linked to pharmacy closures.[17] As a result, patients may lose access to the pharmacy services they have grown accustomed to—such as flu vaccinations, filling prescriptions, or even shopping for over-the-counter medications—in their local communities, which would most acutely be felt in rural communities.

RECENT LEGISLATIVE PROPOSALS

Efforts to reform PBM practices have received broad bipartisan and bicameral attention over the past few years. In the 118th Congress, the Committee on Energy and Commerce advanced proposals to promote transparency within PBM contracting and commercial market practices. According to the Congressional Budget Office (CBO), these PBM transparency proposals could reduce the deficit by over $2 billion. These savings are attributable to employers gaining more visibility into their prescription drug spending, allowing them to more effectively allocate these savings to higher wages for employees.[18]

The Committee on Energy and Commerce also passed legislation to address unnecessary prescription drug spending in state Medicaid programs, specifically prohibiting spread pricing in Medicaid. Additionally, Congress developed legislation to improve the accuracy of payments to pharmacies under Medicaid by requiring qualifying pharmacies to participate in the National Average Drug Acquisition Cost (NADAC) survey. This survey tracks pharmacy acquisition costs, which Medicaid programs use to inform reimbursement to their pharmacies.

Finally, the Committee on Energy and Commerce passed legislation to address Medicare Part D prescription drug spending. Specifically, the legislation passed by the Committee would bring more transparency to PBM practices in Medicare Part D. This policy would also delink PBM compensation from a drug's list price, reducing overall spending for taxpayers and seniors.

IV. STAFF CONTACTS

If you have questions regarding this hearing, please contact Emma Schultheis of the Committee staff at (202) 225-3641.

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[17] Reed Abelson, Rebecca Robbins, *The Powerful Companies Driving Local Drugstores Out of Business,* THE SEATTLE TIMES, 2024, https://www.seattletimes.com/business/the-powerful-companies-driving-local-drugstores-out-of-business/.

[18] Congressional Budget Office, *Estimated Direct Spending and Revenue Effects of H.R. 5378, the Lower Costs, More Transparency Act*, 2023, https://www.cbo.gov/system/files/2023-09/hr5378table.pdf.